

TITLE 16. VETERINARY MEDICAL BOARD

NOTICE IS HEREBY GIVEN that the Veterinary Medical Board (hereinafter "board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the San Diego Wild Animal Park, Arnold and Mabel Beckman Center for Conservation Research located at 15600 San Pasqual Valley Road, Escondido, CA 92027 at 10:00 a.m. on Wednesday, October 18, 2006. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received by the board at its office not later than 5:00 p.m. on October 10, 2006, or must be received by the board at the hearing

The board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY & REFERENCE

Pursuant to the authority vested by Section 4808 of the Business and Professions Code, and to implement, interpret or make specific Sections 4836 and 4840 of said Code, the board is considering changes to Division 20 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law authorizes Registered Veterinary Technicians (RVT) and unregistered assistants to perform specific duties under the direct or indirect supervision of a licensed veterinarian. This regulatory proposal will amend existing regulation and adopt a new regulation relating to the task of administering controlled substances under different levels of supervision.

1. Amend Section 2036

Existing regulations allow veterinarians to delegate specific tasks under direct or indirect supervision. Until recently, it was assumed by the Board and the profession that the delegation of controlled substances to either an RVT or unregistered assistant fell within this regulatory authority. In a legal opinion dated April 19, 2006 the Board's legal counsel determined that this is not the case. The Federal Uniform Controlled Substances Act (UCSA) restricts such administration to license veterinarians unless it is delegated under "immediate supervision".

This proposed regulation would adopt a new section that would allow an RVT to administer controlled substances under indirect supervision. Indirect supervision means that the veterinarian is not physically present at the location where the drugs are being administered but has given either written or oral instructions (direct orders) for treatment of the animal patient after the animal has been examined by the veterinarian.

2. Amend Section 2036.5

Existing regulations allow veterinarians to delegate specific tasks to unregistered assistants under direct or indirect supervision of a veterinarian or direct supervision of an RVT. Direct supervision means that the veterinarian or RVT is physically present at the location where the tasks are being performed and is easily available and the animal has been examined by the veterinarian. This proposed regulation would amend the regulation to allow an unregistered assistant to administer controlled substances under the direct supervision of a licensed veterinarian.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The board has determined that this regulatory proposal will not have any impact on the creation of jobs or the elimination of jobs or impact the creation of or eliminate existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Veterinary Medical Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The board has determined that the proposed regulations would not affect small businesses. This proposal provides an alternative to veterinary practices that want to utilize existing staff to administer controlled substances.

The laws in the Federal UCSA have been in effect for many years but were mostly directed at the human medical field. A heightened awareness of the need for pain medication for animals over the past few years has increased the use of controlled substances in veterinary medicine for pain control and has increased the use of RVTs and lay staff under indirect supervision to administer such paid medication after hours and on weekends.

The legal opinion dated April 19, 2006, determined that there is some unintentional conflict between current practice in California and existing law. Based on testimony received at a public hearing in April 2006, the Board determined that is common practice for veterinarians to delegate the administration of pain medications to RVTs and lay staff (unregistered assistants) under indirect supervision because they and the Board believed that it was lawful based on current law in California.

If this regulatory proposal is not approved, animals will suffer due to a lack of staff available to administer such pain medications. The Board believes that the current interpretation of the Federal UCSA negatively impacts all veterinary hospitals (businesses) throughout California, because it would require veterinarians be present during every administration of a controlled substance. Current staffing levels make this requirement impossible.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Veterinary Medical Board at 1420 Howe Avenue, Suite 6, Sacramento, CA 95825-3228.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Deanne Pearce
Address: 1420 Howe Avenue, Suite 6
Sacramento, CA 95825-3228
Telephone No.: (916) 263-2610
Fax No.: (916) 263-2621
E-Mail Address: deanne_pearce@dca.ca.gov

The backup contact person is:

Name: Jennifer Thornburg
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Website Access:

Materials regarding this proposal can be found at www.vmb.ca.gov